

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DERRICK PALMER, KENDIA MESIDOR,
BENITA ROUSE, ALEXANDER ROUSE,
BARBARA CHANDLER, and LUIS
PELLOT-CHANDLER,

Plaintiffs,

vs.

AMAZON.COM, INC. and AMAZON.COM
SERVICES LLC,

Defendants.
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Case No. 1:20-cv-2468-BMC

DECLARATION OF OPHELIA GALINDO

I, Ophelia Galindo, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am currently the Global Director for Disability and Leave Services.
2. I joined Amazon.com Services, LLC ("Amazon") in September 2015.
3. I am responsible for leading the team that administers leaves of absence,

ADA/ADAAA accommodation and Amazon's short- and long-term disability plans.

I. Plaintiff Barbara Chandler Has Been Paid In Full For Her Period of COVID-19 Leave

4. I have reviewed the declaration of Plaintiff Barbara Chandler, a Process Assistant at Amazon's JFK8 facility, wherein she contends that she was not adequately paid for her COVID-19 leave. As explained below, an analysis of Ms. Chandler's payment records reveals that her contention is wrong.

5. Ms. Chandler asserts that she has received only a portion of the pay she was owed under Amazon's COVID-19 leave policy, a new paid leave program instituted by Amazon in

response to the COVID-19 crisis. This paid leave ensures that qualified employees, including those who are placed in quarantine or diagnosed with COVID-19, receive up to two work weeks of paid time off (referred to as “Special COVID Pay”) so that they can focus on their health without worrying about lost income. This COVID-related paid leave is offered over and above employees’ paid time off accruals under Amazon’s standard policies.

6. Special COVID Pay is calculated based on the employee’s class (for example, a Class F full-time employee will receive 80 hours of base pay). Because schedules vary significantly among employees in the same Class, and can change over the course of weeks, Special COVID Pay for a Class F employee assumes 40 hours a week (8 hours a day for 5 days a week, Monday through Friday).

7. Ms. Chandler was diagnosed with COVID-19 and initially approved for Special COVID Pay from March 25-April 7. Ms. Chandler’s leave was later extended, at her request, until April 12. Her total leave period was thus 18 calendar days, with the first 14 calendar days covered by Amazon’s COVID-19 paid leave program.

8. Ms. Chandler has been paid in full in accordance with the above. Ms. Chandler was due \$1,656.80 for 80 hours (two weeks at 40 hours) of Special COVID Pay, as follows:

- a. For the first partial calendar week (March 25-March 27) at a rate of \$20.50 per hour (her pay rate at that time) for 24 hours, she was due a total of \$492.00.
- b. For the remaining full week of March 30, at a rate of \$20.80 (as her pay rate increased on March 29) for 40 hours, she was due a total of \$832.00.
- c. For the partial week of April 6, at a rate of \$20.80 for 16 hours, she was due \$332.80.

9. At the time of Ms. Chandler's positive test, Amazon made quarantine payments through a combination of the Special COVID Pay program and short-term disability (STD) plan, which begins on the eighth calendar day of leave.¹ Thus, for Ms. Chandler, 100% of her first week's Special COVID Pay was coded as "guarantee pay" on her earnings statement. For the second week of Special COVID Pay, she received 40% as "guarantee pay" and the remaining 60% in the form of STD pay benefits. In total, over two pay periods, she was paid \$1,164.80 in "guarantee pay" and \$492.00 in STD benefits, for a total of \$1,656.80, as follows:

- a. Ms. Chandler's April 10 earnings statement, which covers the week of March 29-April 4 (the next pay period after Ms. Chandler's leave began on March 25) shows Ms. Chandler received \$1,164.80 in "guarantee pay," before taxes and other applicable deductions. This reflects 56 of the 80 hours of the Special COVID Pay (100% of the first week and 40% of the second), at an hourly rate of \$20.80. A true and correct copy of Ms. Chandler's April 10 earnings statement is attached hereto as **Exhibit A**.
- b. The remaining compensation due to Ms. Chandler for the second week of her quarantine leave was paid from the STD plan over two pay periods. The first payment is reflected on the April 10 earnings statement (covering the week of March 29-April 4), for \$281.14 from the STD plan. The second payment, \$210.86, is reflected on the April 17 earnings statement (covering the week of April 5-April 11 (the week during which Ms. Chandler's 14-day

¹ Amazon now pays the full two weeks through Special COVID Pay, and begins paying STD (when applicable) in the third week of leave.

quarantine leave ended, on April 7). A true and correct copy of the April 17 earnings statement is attached hereto as **Exhibit B**.

10. Adding \$492.00 in STD plan payments to the \$1,164.80 in “guarantee pay,” Ms. Chandler was paid a total of \$1,656.80 for the first two weeks of her leave, which is consistent with the standard Special COVID Pay entitlement.

11. As discussed above, Ms. Chandler was eligible for continuation of the STD pay benefits for the additional four calendar days of leave she received, at a rate of 60% of the base pay on the date her leave began (the basis defined by the STD plan). This is reflected on her May 29 earning statement, showing Ms. Chandler was paid \$281.14 in STD benefits, which is equivalent to 60% of her weekly pay, pro-rated over a four calendar-day period (based on a daily rate calculated by dividing the \$820 weekly earnings by 7 days). A true and correct copy of the May 29 earning statement reflecting these STD payments is attached hereto as **Exhibit C**.

12. Ms. Chandler has therefore been fully paid the \$1,937.94 due to her for her 18 days of leave. 14 calendar days (80 work hours) were paid at 100%, and the remaining four calendar days were paid at the disability plan rate of 60%.

13. Ms. Chandler received more pay through Amazon’s Special COVID Pay and STD plans than she would have earned had she continued working, given her 2020 work record. Year-to-date, at the time Ms. Chandler took her quarantine leave, she had been working an average of 32.85 hours per week. Nevertheless, Amazon paid her quarantine leave at the rate of 40 hours per week based on her Class F designation as a 40 hour per week employee.

II. Amazon's Leave Policies In Response To COVID-19

14. The COVID-19 paid leave to which Ms. Chandler was entitled was established by Amazon in response to the COVID-19 crisis on March 11, 2020. It has been regularly utilized by employees.

15. In its current form, Amazon's Special COVID Pay program is available to six categories of employees: (1) employees with confirmed COVID-19 diagnoses; (2) employees who have been directed by Amazon to quarantine as a result of Amazon's contact tracing efforts; (3) employees who have been individually directed by government or public health agencies not to go to work based on their own illness or exposure to COVID-19; (4) employees who have been individually directed by their own health care provider to quarantine related to COVID-19; (5) employees who are caring for a close contact with a doctor-diagnosed case of COVID-19; and (6) employees who are presumptively diagnosed with COVID-19, to be determined based on certain factors and in consultation with a Leave of Absence case manager (primarily based on the employee reporting three consecutive days of COVID-19 symptoms).

16. For the employees who fall under category (2), Amazon human resources ("HR") has the authority to automatically approve the employee for Special COVID Pay. For the other categories, employees must request leave and provide the appropriate documentation. For example, if an employee is requesting leave based on a positive COVID-19 diagnosis, then the employee must provide documentation of that test result. At the same time, if, for example, an employee is requesting leave based on a presumptive diagnosis, Amazon Disability and Leave Services ("DLS") has the discretion to waive documentation requirements if the employee is unable to see a doctor but has persistent symptoms consistent with COVID-19. Amazon also

offers the services of Grand Rounds, a telemedicine program, for employees to consult with a physician about COVID-19 symptoms and concerns.

17. When an employee believes that he or she is eligible for Special COVID Pay, the employee is instructed to communicate with Amazon's HR team. An HR team member will then direct the employee to contact DLS via phone or online portal.

18. Amazon pays out this Special COVID Pay promptly after receiving the required documentation.

19. Amazon's employees should be well aware of the COVID paid leave program. Amazon communicated the program on March 11, 2020 in a public posting on Amazon's "DayOne" blog, as well as through on-site communications, such as manager presentations.

20. In addition to the COVID paid leave program, Amazon encourages employees to take advantage of existing time-off policies as needed. Amazon offers multiple types of paid leave, including Paid Personal Time ("PPT") and vacation time.

21. Amazon also offers options for unpaid time off, such as Unpaid Time ("UPT"). Before the COVID-19 crisis, UPT accrued at 20 hours per quarter, provided on the first of each quarter. Associates may use UPT in one-hour increments for any purpose. Although an employee is in violation of Amazon's attendance policy if his or her UPT falls below zero hours, Amazon does not automatically subject associates to discipline for negative UPT, contrary to Plaintiffs' allegations. *See* Compl. ¶ 88. Instead, HR first conducts a "seek to understand" conversation with the associate who falls into negative UPT to determine the associate's circumstances and help alleviate problems. For example, if the associate had to use UPT because he or she was unable to get to work on time, Amazon may help the associate engage services and resources for which he or she is eligible, such as the MTA Essential Connector

program. HR can also apply any PPT to the negative UPT balance to bring the associate back into compliance.

22. In response to the COVID-19 pandemic, from March 6 through the end of April, Amazon modified its UPT policy to provide associates with unlimited UPT. Unlimited UPT was intended to be used by associates to ease pandemic-related burdens such as school closures, short absences, or other exigencies. If employees were unable or unwilling to come to work at all, they were told to apply for a leave of absence.

23. Many employees who used UPT during the period when unlimited UPT was available did so intermittently and still came to work.

24. As of May 1, Amazon resumed its standard UPT policy. At the same time, Amazon modified another of its unpaid leave programs, Personal Leave of Absence (“PLOA”), to ensure flexibility for those impacted by COVID-19. As of April 24, Amazon made PLOA available to employees who needed to stay home due to school closures, who are caring for those at high risk of infection or complications, or who are themselves at high risk of contracting or facing serious health issues as a result of contracting COVID-19. Amazon also expanded PLOA to classes of employees who previously were not eligible for that form of leave. By policy, Amazon had previously required that employees provide 30-days advance notice when applying for PLOA, though DLS had discretion to permit less notice; as of April 24, the 30-day requirement was shortened to 15, and was waived entirely for those applying between April 24 and April 29 so that employees could request PLOA to start as early as May 1 (the date the unlimited UPT policy was scheduled to expire). Amazon also temporarily waived the advance notice requirement for certain COVID-19-related requests.

25. In the first week of implementing these changes, Amazon received 9,979 requests for PLOA, 97% of which were auto-approved. If PLOA is denied, the applicant may make a request for reconsideration.

26. On May 28, Amazon increased the maximum number of initial allowable days of PLOA from 30 days to 45 days. In addition, employees may request an extension of this initial period, up to a total of 12 weeks of PLOA in a rolling 12-month period.

27. Amazon has encouraged employees who need continued time off to apply for PLOA by contacting DLS via phone, or by using Amazon's "A to Z" employee portal, a self-service tool available online or on a mobile device.

28. The "A to Z" portal provides a simple, user-friendly platform for Amazon's employees through which they can submit medical accommodation or leave of absence requests, including for PLOA and specifically for COVID-19. A to Z walks employees through the various leave options available based on their responses to prompts and questions, and takes the employee through the application process. True and correct screenshots of various pages within the A to Z portal are attached hereto as **Exhibit D**.

29. Throughout the pandemic, and continuing to this day, Amazon encourages employees who feel sick to stay home. All of the foregoing options for paid and unpaid time off remain available to employees, including applicable government-mandated leave, such as leave under the Family and Medical Leave Act ("FMLA") and New York's statutory disability benefits plan, which is administered for Amazon by The Hartford insurance company. Amazon also provides Medical Leave of Absence for when an employee needs extended time off due to a medical condition not covered under the FMLA or any state or local leave.

30. I am not aware of any associates who have been deterred from using leave available to them during this crisis.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 7th day of July, 2020 at Seattle, Washington.

By: 

Ophelia Galindo

Exhibit Index

Exhibit A	Barbara Chandler April 10 Earnings Statement
Exhibit B	Barbara Chandler April 17 Earnings Statement
Exhibit C	Barbara Chandler May 29 Earnings Statement
Exhibit D	“A to Z” Portal Screen Shots